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# Shoreland Zoning News, Spring 2014

Maine Department of Environmental Protection

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## Shoreland Zoning News

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## Shoreland Zoning News



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### Commissioner's Corner

Following a long, cold winter like the one we've had, I'm looking forward to gardening and being outside in the warmth. For many in Maine, spring is not only the start of mud season but construction season, which can mean building or landscaping in the shoreland zone. In the next two months, the department will be releasing a working draft of updates to the Chapter 1000 rules and will be seeking your input and comments as we move forward.

This substantial update of Chapter 1000 reflects the extensive stakeholder input and legislative changes of the last few years, and these changes may impact your future work.

We are improving these regulations to provide for greater clarity and to ensure that sustainable development can occur when there is no harm to the environment. For example, the department introduced legislation so properties in working waterfront districts – properties that have long been historically developed – are exempt from vegetation removal standards and our iconic working waterfront heritage can be protected. Another change continues to allow reasonable expansions of nonconforming structures, but it will be administered in a much more sensible and simpler manner. Additional clarity will be provided for the removal of dead, hazard and storm-damaged trees – legitimately dangerous trees can be identified and removed while preserving a healthy and vital forested buffer. As communities across the State prepare for climate change, the department will be finding additional ways to provide consistent information related to climate adaptation needs.

As we move forward with this process, we'll be reaching out to a wide sector of interested groups and persons who will be directly impacted by the changes. As regulators, it is our duty to ensure that our customers – the regulated community – are not only informed of rule changes but also understand their implementation so they can provide comments. We believe improving our communications with the regulated community and listening to their feedback increases the environmental literacy of all. It means everyone in Maine can become better stewards of our natural resources while ensuring we have a strong and sustainable economy.

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## **Kudos: Code officers adeptly identify the normal high-water line**

For many years, the Shoreland Zoning staff has assisted municipal officials in the field or during various trainings with the identification of the normal high-water line (NHWL) on great ponds, rivers and streams.

Thank you for attentively listening and actively participating in workshops and our field visits. We're seeing improvements in your ability to better understand the often changing natural environment.



Since the NHWL is the starting point where the shoreland zone begins, it is imperative that code enforcement officers (CEOs) properly and consistently identify its location. Often the NHWL can be relatively obvious. In the case of a river or stream, it is commonly the location at the top of the river or stream bank.

On a dam-controlled lake, the NHWL is commonly the elevation at or just above the top of the spillway crest on the dam; while on a natural lake, there are other reliable indicators including vegetation changes and shoreline erosion.

Of course, it is not uncommon for CEOs and staff to encounter a shoreline area where such a

determination isn't quite as obvious. CEOs can [contact us](#) to discuss the shoreline characteristics, and if warranted we will visit the shoreline location with you to aid in identifying the NHWL.

We're regularly finding that many CEOs, particularly the 'veteran' CEOs, have attained a level of shoreland zoning knowledge and confidence so that more difficult determinations are becoming easier, and your determinations are accurate, consistent and defensible when challenged. Kudos to you!

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## **Story Series: Permitting reconstruction and expansion projects**

This series on nonconforming structures continues. Common projects involve reconstructing a structure that does not conform to the shoreline setback requirement, and simultaneously the applicant proposes to expand the nonconforming structure.

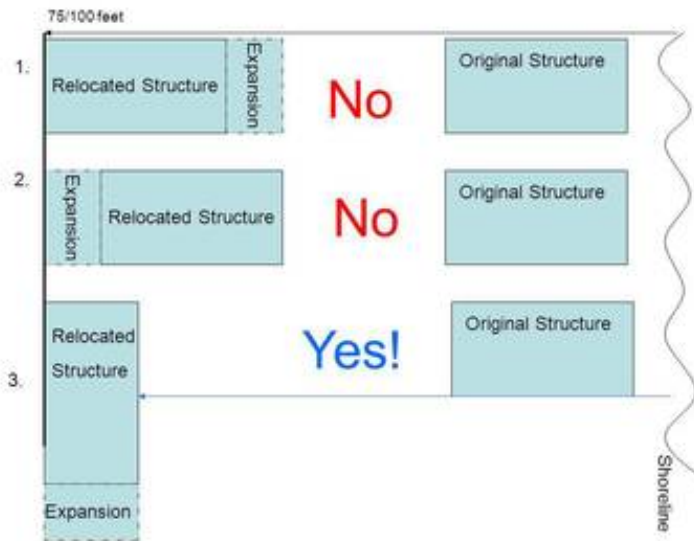
Since an expansion can occur without reconstructing and relocating the structure, the expansion section of the ordinance was written to precede the reconstruction section. Despite this, the standards effectively require that the reconstruction portion of the project be reviewed before the expansion proposal.

Full reconstruction requires the structure to be relocated to meet the setback to the greatest practical extent. ([Check out the Story Series in the last edition.](#)) Once relocation is determined, ordinances prohibit changes to the structure that would increase nonconformity.

The 2006 revisions to Chapter 1000 made this requirement more explicit in the reconstruction section. This section states that the reconstructed structure can only be expanded in accordance with the expansion standards "at its new location." Once the new location is determined, reconstruction cannot cause the structure to increase in nonconformity.

As some of you are aware, the Shoreland Zoning Act was revised to replace "floor area and volume" with "footprint." The Act also allows municipalities to enact standards that allow the landowner to choose whether they will utilize the footprint cap or the 30% cap. Even though rulemaking on Chapter 1000 is not complete, municipalities may enact amendments to start administering these changes. We are providing technical assistance, and we encourage municipalities to contact us when drafting amendments.

Annual code enforcement officer trainings include review of projects involving both reconstruction and expansion. We developed a slide that illustrates these standards, helping permitting authorities visually see what the words are describing.



As always, feel free to [contact us](#) for technical assistance when you need it.

## Shoreland Notes: Upcoming trainings

### Annual CEO trainings

Every year shoreland zoning staff members present code enforcement officer workshops. We look forward to seeing you at the end of April or beginning of May.

These free, full-day trainings cover basic shoreland zoning standards for those preparing for the certification exam. New information is included for those attending for continuing education credits. This year's presentations will include administration of newer shoreland zoning standards, which are being enacted by municipalities in response to the Shoreland Zoning Act revisions.

The day includes a break for lunch, which is on your own. Then we head into the field for an interactive afternoon session. As we develop the field exercises, [contact us](#) about what you want to learn or practice.

**Augusta, Florian Hall:** May 8 from 9:00AM to 4:00PM.

**Falmouth, Town Office:** April 29 from 9:00AM to 4:00PM.

**Lincoln, NPT Region III:** April 23 from 9:30AM to 4:30PM.

Northern Maine officials are welcome to attend training in Lincoln, or anyone interested in video conferencing the morning session given in Augusta may [contact Stephenie](#).

### Other upcoming workshops

These other workshops provide more detailed information on specific topics, components of which are applicable to administering shoreland zoning. As such, continuing education credits are available for attending these upcoming events.

**Geographic Information Systems for Assessing, Planning and Permitting:** April 24 from 6:00AM to 8:30PM. Registration is required by April 22 and more information is [online](#). Sponsor: Hancock County Planning Commission.

**Clams, Land Use & Economy** (and funding to help): Choose one of two free workshops for code officers and planning board officials. May 13 at the Milbridge Public Library or May 14 at the Washington County Community College from 6:00PM to 9:00PM. Find more information, and how to register by May 2, [online](#). Sponsor: Washington County Council of Governments.



## Maine Department of Environmental Protection

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